

AS

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 95-965-C - ORDER NO. 95-1638✓
OCTOBER 27, 1995

IN RE: Application of SmarTalk TeleServices, Inc., for Certificate of Public Convenience and Necessity to Operate as a Reseller of Interexchange Telecommunications Services within the State of South Carolina)	ORDER
)	APPROVING
)	CERTIFICATE
)	
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This matter comes before the Public Service Commission of South Carolina (the Commission) by way of the Application of SmarTalk TeleServices, Inc. (SmarTalk or the Company) requesting a Certificate of Public Convenience and Necessity authorizing it to operate as a reseller of telecommunications services, through sales of debit cards, in the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. 58-9-280 (Supp. 1993) and the Regulations of the Public Service Commission of South Carolina.

The Commission's Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The purpose of the Notice of Filing was to inform interested parties of the Company's Application and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. The Company complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A public hearing was commenced on October 17, 1995, at 11:00

a.m., in the Commission's Hearing Room. The Honorable Rudolph Mitchell, Chairman, presided. SmarTalk TeleServices, Inc., was not represented by Counsel. Catherine D. Taylor, Staff Attorney, and Florence P. Belser, Staff Attorney, represented the Commission Staff.

Robert Lorsch, Chairman and CEO of the Company, appeared and offered testimony in support of the Company's Application. Mr. Lorsch explained the Company's request for authority to provide interexchange telecommunications services in South Carolina as a non-facilities based reseller by means of sales of a prepaid calling card or debit card. Mr. Lorsch described the Company's services, its managerial, technical, and financial resources, and its marketing procedures. Mr. Lorsch also stated that the Company will provide its services in compliance with the Commission's rules and regulations. Mr. Lorsch also testified that SmarTalk would make certain changes to its tariff to comply with the rules and regulations of this Commission.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. SmarTalk TeleServices, Inc., is incorporated under the laws of the State of California and is licensed to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. SmarTalk TeleServices, Inc., operates as a non-facilities based reseller of interexchange services and wishes to provide its services in South Carolina.

3. SmarTalk TeleServices, Inc., has the experience, capability, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to the Company to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, and to sell its debit cards within the State of South Carolina.

2. The Commission adopts a rate design for SmarTalk for its resale services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. SmarTalk shall not adjust its rates below the approved maximum level without notice to the Commission and to the public. SmarTalk shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived and therefore not required for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. Section 58-9-540 (Supp. 1993).

4. The Company shall file its revised tariff and an accompanying price list within thirty (30) days of the date of this Order. The revised tariff shall be consistent with the findings of this Order and shall include the changes which the Company agreed to include in its tariff. Further, the tariff shall be filed with the Commission in a loose-leaf binder.

5. The Company shall conform the tariff to the guidelines of Commission Order No. 95-658, in which the Commission addressed marketing procedures utilized by telecommunications companies.

6. The Company is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

7. With regard to the Company's resale of service, and end-user should be able to access another interexchange carrier or operator service provided if they so desire.

8. The Company shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If the Company changes underlying carriers, it shall notify the Commission in writing.

9. With regard to completion of any intraLATA toll calls, the Company shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993).

10. Further, the Company shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The proper form for these reports is indicated on Attachment A.

11. SmarTalk agrees that should a retailer of its debit cards exceed the suggested retail price as filed in the tariff, SmarTalk will withdraw its cards from that retail outlet. This Commission strongly suggest that SmarTalk enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

12. As a condition of receiving its Certificate, SmarTalk shall post with the Commission, as a bond, Certificates of Deposit worth \$5,000 from a Federally insured institution to protect the consumers of South Carolina. This condition may be reviewed in one year.

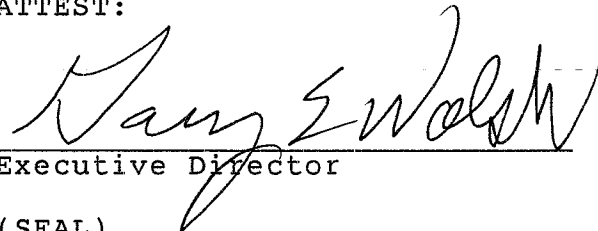
13. That this Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:

Deputy


Executive Director
(SEAL)